

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

FILED
JAN 04 2019
Clerk, U.S. Courts
District Of Montana
Missoula Division

JOANNA M. SNYDER,

Plaintiff,

vs.

JILL ROSENTHAL and MARK
HENKEL,

Defendants.

CV 18-195-M-DLC-JCL

ORDER

United States Magistrate Judge Jeremiah C. Lynch entered his Order and Findings and Recommendations in this case on December 6, 2018, recommending that Plaintiff's complaint be dismissed with prejudice for failure to state a claim upon which relief may be granted. (Doc. 4 at 3.) Plaintiff did not object to the Findings and Recommendations and so has waived the right to de novo review thereof.¹ 28 U.S.C. § 636(b)(1)(C). Absent objection, this Court reviews findings and recommendations for clear error. *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *Thomas v. Arn*, 474 U.S. 140, 149 (1985).

¹ Plaintiff did file a Motion to Leave to Amend/Correct Complaint wherein she requests "a 120 day leave to Amend/Correct" based upon physical difficulties arising from a lack of corrective lenses and a problem with her dominant hand. (Doc. 6 at 1.) These problems have nothing to do with the fact that Plaintiff has not and cannot state a claim entitling her to relief. Consequently, this Motion will be denied. Additionally, the Motion does not address Judge Lynch's Order and Findings and Recommendations in any way and, consequently, will not be construed as an objection.

Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted). Reviewing for clear error and finding none,

IT IS ORDERED that Judge Lynch’s Order and Findings and Recommendations (Doc. 4) are ADOPTED IN FULL. Plaintiff’s complaint is DISMISSED WITH PREJUDICE for failure to state a claim on which relief may be granted.

IT IS FURTHER ORDERED that Plaintiff’s Motion (Doc. 6) is DENIED.

IT IS FURTHER ORDERED that the docket shall reflect that Plaintiff’s filing of this action counts as one strike pursuant to 28 U.S.C. § 1915(g).

IT IS FURTHER ORDERED that the Court certifies, pursuant to Federal Rule of Appellate Procedure 24(a)(4)(B), that any appeal from this disposition would not be taken in good faith.

DATED this 4th day of January, 2019.



Dana L. Christensen, Chief Judge
United States District Court